

all or part of cost-share assistance received. The Deputy Administrator will determine what constitutes failure to maintain a practice and the amount that must be refunded.

§701.32 Failure to comply with program provisions.

Costs may be shared for performance actually rendered even though the minimum requirements otherwise established for a practice have not been satisfied if a reasonable effort was made to satisfy the minimum requirements and if the practice, as performed, will adequately address the need for the practice.

§701.33 Death, incompetency, or disappearance.

In case of death, incompetency, or disappearance of any participant, any cost-share payment due shall be paid to the successor, as determined in accordance with part 707 of this chapter.

§701.34 Appeals.

Part 11 of this title and part 780 of this chapter apply to determinations made under this part.

§701.35 Compliance with regulatory measures.

Participants who perform practices shall be responsible for obtaining the authorities, permits, rights, easements, or other approvals necessary to the performance and maintenance of the practices according to applicable laws and regulations. The ECP participant shall be wholly responsible for any actions taken with respect to the project and shall, in addition, be responsible for returning and refunding any ECP cost shares made, where the purpose of the project cannot be accomplished because of the applicants' lack of clearances or other problems.

§701.36 Schemes and devices and claims avoidances.

(a) If FSA determines that a participant has taken any action designed to defeat, or has the effect of defeating, the purposes of this program, the participant shall be required to refund all or part of any of the program payments otherwise due or paid that participant or related person for that particular

disaster. These actions include, but are not limited to, failure to properly maintain or deliberately destroying a practice and providing false or misleading information related to practices, costs, or arrangements between entities or individuals that would have an effect on "person" determinations made under this part.

(b) All or any part of cost-share assistance that otherwise would be due any participant may be withheld, or required to be refunded, if the participant has adopted, or participated in, any scheme or device designed to evade the maximum cost-share limitation that applies to the ECP or to evade any other requirement or provision of the program or this part.

(c) If FSA determines that a participant has employed any scheme or device to deprive any other person of cost-share assistance, or engaged in any actions to receive payments under this part that also were designed to avoid claims of the United States or its instrumentalities or agents against that party, related parties, or third parties, the participant shall refund all or part of any of those program payments paid to that participant for the project.

(d) For purposes of this section, a scheme or device can include, but is not limited to, instances of coercion, fraud, or misrepresentation regarding the claim for ECP assistance and the facts and circumstances surrounding such claim.

(e) A participant who has knowingly supplied false information or filed a false claim shall be ineligible for cost-share assistance related to the disaster for which the false information was filed, or for any period of time FSA deems appropriate. False information or a false claim includes, but is not limited to, a request for payment for a practice not carried out, a false billing, or a billing for practices that do not meet required specifications.

§701.37 Loss of control of the property during the practice life span.

In the event of voluntary or involuntary loss of control of the land by the ECP cost-share recipient during the